

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JANET HILLER,

Petitioner,

v.

ATTORNEY GENERAL OF THE
STATE OF NEVADA, *et al.*,

Respondents.

Case No. 2:19-cv-00260-RFB-EJY

ORDER

This habeas corpus action, brought under 28 U.S.C. § 2254 by Janet Hiller, who is represented by appointed counsel, was stayed on May 22, 2020, pending Hiller's further state-court proceedings. ECF No. 37. On December 7, 2022, upon Hiller's motion, the Court temporarily lifted the stay for the limited purpose of allowing Hiller to file a third amended habeas petition and supporting exhibits. ECF No. 45; see also ECF No. 46 (third amended petition). On December 6, 2023, Hiller filed a Motion to Reopen (ECF No. 48), stating that her state-court proceedings have been completed and requesting that the stay be lifted and that the Court order Respondents to respond to her third amended petition. ECF No. 48. On December 20, 2023, Respondents filed a notice stating that they do not oppose Hiller's Motion to Reopen. ECF No. 49. The Court will grant Hiller's Motion and will lift the stay and set a schedule for further proceedings.

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1 **IT IS THEREFORE ORDERED** that Petitioner's Motion to Reopen (ECF No. 48) is
2 **GRANTED**. The stay of this action is lifted. The Clerk of the Court is directed to reopen this
3 case.

4 **IT IS FURTHER ORDERED** that the following schedule will govern further
5 proceedings in this action:

6 1. Response to Petition. Respondents will have 90 days from the date of his order to file
7 an answer or other response to Petitioner's third amended habeas petition (ECF No. 46).

8 2. Reply and Response to Reply. Petitioner will have 60 days following the filing of an
9 answer to file a reply. Respondents will then have 30 days following the filing of a reply to file a
10 response to the reply.

11 3. Briefing of Motion to Dismiss. If Respondents file a motion to dismiss, Petitioner will
12 have 60 days following the filing of the motion to file a response to the motion. Respondents will
13 then have 30 days following the filing of the response to file a reply.

14 4. Discovery. If Petitioner wishes to move for leave to conduct discovery, Petitioner
15 may file such motion concurrently with, but separate from, the response to Respondents' motion
16 to dismiss or the reply to Respondents' answer. Any motion for leave to conduct discovery filed
17 by Petitioner before that time may be considered premature, and may be denied, without
18 prejudice, on that basis. Respondents must file a response to any such motion concurrently with,
19 but separate from, their reply in support of their motion to dismiss or their response to
20 Petitioner's reply. Then, Petitioner will have 20 days to file a reply in support of the motion for
21 leave to conduct discovery.

22 5. Evidentiary Hearing. If Petitioner wishes to request an evidentiary hearing, Petitioner
23 may file a motion for an evidentiary hearing concurrently with, but separate from, the response
24 to Respondents' motion to dismiss or the reply to Respondents' answer. Any motion for an
25 evidentiary hearing filed by Petitioner before that time may be considered premature, and may be
26 denied, without prejudice, on that basis. The motion for an evidentiary hearing must specifically
27 address why an evidentiary hearing is necessary and must satisfy the requirements of 28 U.S.C. §
28 2254(e). The motion must state whether an evidentiary hearing was held in state court, and, if so,

1 state where the transcript is located in the record. If Petitioner files a motion for an evidentiary
2 hearing, Respondents must file a response to that motion concurrently with, but separate from,
3 their reply in support of their motion to dismiss or their response to Petitioner's reply. Then,
4 Petitioner will have 20 days to file a reply in support of the motion for an evidentiary hearing.

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6 **Dated:** December 21, 2023.

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10 **RICHARD F. BOULWARE, II**
11 **UNITED STATES DISTRICT JUDGE**
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